

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LOUIS ACOSTA,

Plaintiff,

v.

K. MCNEAL, et al.,

Defendants.

No. 1:20-cv-01209-DAD-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. Nos. 24, 26)

Plaintiff Louis Acosta is a state prisoner appearing *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 11, 2021, plaintiff filed a motion for leave to amend his complaint, along with a proposed amended complaint, seeking to add and restore certain defendants, to add additional factual allegations, and to add a claim under the Americans with Disabilities Act (“ADA”). (Doc. No. 24.) On June 17, 2021, the assigned magistrate judge issued findings and recommendations, recommending that plaintiff’s motion for leave to amend his complaint be granted; that this action proceed against defendants K. McNeal, R. Moore, H. Montoya, and N. Welch for alleged deliberate indifference to plaintiff’s serious medical needs in violation of the Eighth Amendment and proceed against defendant California Department of Corrections and Rehabilitation on plaintiff’s ADA claim; but that all other claims be dismissed due to plaintiff’s failure to state a

1 cognizable claim upon which relief may be granted. (Doc. No. 26.) The pending findings and
2 recommendations were served on plaintiff and contained notice that any objections thereto were
3 to be filed within twenty-one (14) days from the date of service. (*Id.* at 12–13.) To date no
4 objections have been filed, and the time in which to do so has since passed.

5 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
6 *de novo* review of this case. Having carefully reviewed the entire file, the court finds the findings
7 and recommendations to be supported by the record and by proper analysis.

8 Accordingly,

- 9 1. The findings and recommendations issued on June 17, 2021, (Doc. No. 26), are
10 adopted in full;
- 11 2. Plaintiff’s motion for leave to amend (Doc. No. 24) is granted;
- 12 3. The Clerk of the Court is directed to docket plaintiff’s proposed amended
13 complaint (Doc. No. 24 at 4–23) as an amended complaint; to add defendant N.
14 Welch to the docket; and to restore defendant California Department of
15 Corrections and Rehabilitation to the docket;
- 16 4. This case shall proceed against defendants K. McNeal, R. Moore, H. Montoya, and
17 N. Welch for alleged deliberate indifference to plaintiff’s serious medical needs in
18 violation of the Eighth Amendment and against defendant California Department
19 of Corrections and Rehabilitation on plaintiff’s ADA claim;
- 20 5. All other claims are dismissed due to plaintiff’s failure to state a cognizable claim
21 upon which relief may be granted; and
- 22 6. This action is referred back to the assigned magistrate judge for further
23 proceedings.

24 IT IS SO ORDERED.

25 Dated: **August 17, 2021**

26 
UNITED STATES DISTRICT JUDGE